

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 396 of 1989

here, so

SHRI BANSI LAL, C/O SHRI SHARDA NAND, GENERAL SECRETARY, CUTCAON
FACTORY WORKERS UNION, APTC OFFICE, 72, MARIE CURIE CN

and

THE MANAGEMENT OF MS MANAGER, HARYANA AGRICULTURAL UNIVERSITY,
BAWAL (MOHINDERGARH).

Present.

Siri Sherdhe, Nand for the workman.

Shri P. K. Gupta for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Dispute Act, 1947, (in short "the Act") the Governor of Haryana, referred the following dispute, between the parties, mentioned above, to this Court for adjudication - viz. Haryana Government Labour Department Endorsement No. 48503 dated 23rd October, 1989.

Whether termination of services of Shri Bansi Lal Beldar is justified and in order? If not, to what relief is he entitled?"

2. The facts contained in the claim statement are that the petitioner was appointed as Beldar on 1st July, 1986 and was drawing a salary of Rs. 625 p.m. and his services were illegally terminated on 25th May, 1990 in contravention of the Industrial Dispute Act and no notice and compensation was paid.

3. The plea set up by the applicant was controverted in the written statement and it was denied that the workman was appointed on 1st June, 1986. It was pleaded that the workman was engaged in March, 1987 and he left the service on his own in March, 1988 and again he had started working with the management from July, 1988 upto May, 1989. According to the respondent, the span of the employment commenced in the year 1987 and ended in March, 1988, and the second span commenced in July, 1988 and it ended in May, 1989. According to the respondent, the workman had worked for 213 days and he was casual laborer and since he did not work for 240 days, he was not entitled to any relief.

4. On the pleadings of the parties, following issue was framed on 13th July, 1990:

Whether termination of services of Shri Bansi Lal, Beldar is justified and in order ? If not, to what relief is he entitled ?

5. I have heard authorised representatives of the parties and have gone through the evidence on the file. My finding on the issue is as under:—

6. The management in this case has examined Brigfir Singh, who brought the muster roll from the year 1981 onwards and provided Ex. M1 copy of the muster roll. He stated that the workman had not worked for 240 days in any of the year and was not entitled to any relief.

7. On the other hand, respondent's exhibit 1 line 14 a WWII. He dep sed that he was working with the respondent since 1st June, 1966 and had worked till May, 1989 and neither any appointment letter or wage slip was given and he was worked under various schemes and different departments and neither any notice or compensa tion was paid.

8. From the evidence which has come on hand, coupled with the material placed on record by the management, it is concluded that there was no complaint against the workman, nor any warning letter.

or charge-sheet was issued. Except for a gap of three months i.e. from April, 1988 to June 1988, the petitioner had worked for 213 days from July 1988 to May 1989. In the year 1987, the workman had put in 201 days. Since his services were being utilised throughout the year, it cannot be said that the petitioner was a seasonal worker. Admittedly, the workman had put in 213 days of service, when his services were terminated without assigning any reason. It appears that the management was alive to the situation that the workman was about to complete 240 days, therefore, workman could not be removed from his job.

9. Time and again, it has been held by our own Hon'ble High Court that "practice of retrenching a workman close to his attaining a year's continuous service in order to frustrate his attaining rights under Chapter V-A of the Industrial Dispute Act is an unfair labour practice, unless there are reasons with the employer with regard to the conduct and service of the workman being unsatisfactory". Reference in this regard may be made to *Kapurthala Central Cooperative Bank Ltd., Kapurthala versus The Presiding officer, Labour Court, Jullundur and others*, 1984 Lab I. C. 974.

10. No. notice or retrenchment compensation was paid to the workman and it can safely be held that the termination in this case is illegal, therefore, the petitioner Bansi Lal is entitled to reinstatement with continuity of service and full back wages. Reference is answered accordingly with no order as to costs.

The 26th October, 1994.

ANITA CHAUDHARY,

**Presiding Officer,
Industrial Tribunal-Cum-Labour Court,
Gurgaon.**

Endorsement No. 1620, dated the 31st October, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

**Presiding Officer,
Industrial Tribunal-Cum-Labour Court,
Gurgaon.**

No. 14/13/87-6Lab/924.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of The Manager, HAV, Bawal, *versus* Lal Singh.

IN THE COURT OF MRS. ANITA CHAUDHARY PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 401 of 1989

between

SHRI LAL SINGH, S/O SHRI THAWAR SINGH, C/O SHRI SHARDHA NAND, GENERAL SECRETARY
AITUC OFFICE, 214/4 MARLA GURGAON

and

THE MANAGER, HARYANA AGRICULTURAL UNIVERSITY,
BAWAL (MOHINDERGARH)

.. Management

Present :

Shri Shardha Nand, for the workman.

Shri P. K. Gupta, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (in short the Act), the Governor of Haryana referred the following dispute between the parties mentioned above, to this Court, for adjudication.—vide Haryana Government Labour Department Endst. No. 48676—81, dated the 24th October, 1989 :—

Whether termination of services of Shri Lal Singh is justified and in order ? If not, to what relief is he entitled ?

2. Briefly put the facts contained in the claim statement are that the petitioner was appointed as beldar by the management on 1st April, 1985 and was drawing a salary of Rs. 625/- p.m. and his services were illegally terminated on 31st May, 1989. No notice or pay in lieu thereof was given and the petitioner has sought his reinstatement with full back wages.

3. The respondent has controverted the claim in their written statement and have denied that workman was appointed on 1st April, 1985. It was pleaded that the petitioner was engaged in the month of July, 1988 and he did not turn up in October, 1988 and had just worked for three days and the total number of days he had worked comes to 69 days and he is not entitled to any relief.

4. On the pleadings of the parties, following issue was framed on 13th July, 1990 :—

Whether the termination of services of Shri Lal Singh is justified and order ? If not, to what relief is he entitled ;

5. I have heard authorised representatives of the parties and have gone through the evidence which have come on record and my finding on the issue is as under :—

6. The management has examined Brij Vir Singh, Farm Manager, who deposed that the petitioner was employed as a casual labour on 5th July, 1988 and he had worked for three days in October, 1988 and the total number of working days comes to 69 and he was not entitled to any notice or retrenchment compensation. He stated that the workers were employed to do the seasonal work. He stated that no appointment letter was given nor any attendance card was prepared and they did not sent any call to the casual labour for employing them.

7. On the other hand, the petitioner has stepped into the witness box as WW1 and stated that he was working as a Beldar with the respondent since 1st April, 1985 and was drawing a salary of Rs. 14/- per day. According to him, his services were terminated on 31st April, 1989 and he had worked in different departments and he was not given any leave of any kind.

8. The management has placed on record Ex. M1 which shows the number of days the petitioner had put in. According to it, the petitioner had worked for 144 days in the year 1985, 73 days in 1986, 67 days in 1987 and 69 days in the year 1988. It also shows that there are gaps of nearly six months in between. Section 25-B defines continuous service and the case of the petitioner does not fall under it. The documentary evidence placed on record by the management shown that the petitioner did not work for a period of 240 days in any of the year. The petitioner in this case has failed to lead any evidence in order to show that he had put in 240 days in any of the year. He did not even summon the record from the management in order to justify his claim. The management was obliged to pay retrenchment compensation only if the petitioner had completed 240 days. Since, in this case petitioner had not put in continuous service of 240 days, therefore, the management was not obliged to give any notice or retrenchment compensation and the petitioner is not entitled to any relief. Reference is answered accordingly with no order as to cost.

ANITA CHAUDHARY,

The 4th October, 1994.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 1623, dated the 31st October, 1994

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Department's, Chandigarh as required under section 15 of the I. D. Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.